

Executive Summary – Enforcement Matter – Case No. 42118

City of Mount Vernon

RN102962230

Docket No. 2011-1257-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Mount Vernon WWTP, located approximately 1,500 feet east of State Highway 37 and 1,500 feet north of United States Highway 67, Franklin County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 30, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,520

Amount Deferred for Expedited Settlement: \$304

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,216

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42118

City of Mount Vernon

RN102962230

Docket No. 2011-1257-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 28, 2011

Date(s) of NOE(s): July 14, 2011

Violation Information

Failed to comply with the permitted effluent limits for total suspended solids and ammonia nitrogen ("NH₃-N"). Specifically, the total suspended solids daily average exceeded the permit limit of 15 milligrams per liter ("mg/L") for the month of December 2010 (19 mg/L), and the NH₃-N daily average exceeded the permit limit of 3 mg/L for the months of January 2011 (4.7 mg/L) and February 2011 (6.1 mg/L) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011122002, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011122002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

Executive Summary – Enforcement Matter – Case No. 42118
City of Mount Vernon
RN102962230
Docket No. 2011-1257-MWD-E

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Margaret Sears, Mayor, City of Mount Vernon, P.O. Box 597, Mount Vernon, Texas 75457

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Jul-2011	Screening	20-Jul-2011	EPA Due	
	PCW	21-Jul-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Mount Vernon		
Reg. Ent. Ref. No.	RN102962230		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42118	No. of Violations	1
Docket No.	2011-1257-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	52.0% Enhancement	Subtotals 2, 3, & 7	\$520
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Notes: Enhancement for 10 months of self-reported effluent violations and one NOV with dissimilar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$647
Approx. Cost of Compliance \$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,520
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,520
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,520
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DEFERRAL	20.0% Reduction	Adjustment	-\$304
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,216
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Screening Date 20-Jul-2011

Docket No. 2011-1257-MWD-E

PCW

Respondent City of Mount Vernon

Policy Revision 2 (September 2002)

Case ID No. 42118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102962230

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	10	50%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 52%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for 10 months of self-reported effluent violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 52%

Screening Date 20-Jul-2011

Docket No. 2011-1257-MWD-E

PCW

Respondent City of Mount Vernon

Policy Revision 2 (September 2002)

Case ID No. 42118

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN102962230

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011122002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limits for total suspended solids and ammonia nitrogen ("NH3-N"), as documented during a record review conducted on June 28, 2011. Specifically, the total suspended solids daily average exceeded the permit limit of 15 milligrams per liter ("mg/L") for the month of December 2010 (19 mg/L), and the NH3-N daily average exceeded the permit limit of 3 mg/L for the months of January 2011 (4.7 mg/L) and February 2011 (6.1 mg/L).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate NH3-N to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

90 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$647

Violation Final Penalty Total \$1,520

This violation Final Assessed Penalty (adjusted for limits) \$1,520

Economic Benefit Worksheet

Respondent City of Mount Vernon
Case ID No. 42118
Reg. Ent. Reference No. RN102962230
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Dec-2010	16-Apr-2012	1.29	\$647	n/a	\$647

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$647

Compliance History

Customer/Respondent/Owner-Operator: CN600251748 City of Mount Vernon Classification: AVERAGE Rating: 1.23

Regulated Entity: RN102962230 CITY OF MOUNT VERNON WWTP Classification: AVERAGE Site Rating: 0.54

ID Number(s): WASTEWATER PERMIT WQ0011122002
WASTEWATER EPA ID TX0063096
WASTEWATER LICENSING LICENSE WQ0011122002

Location: Approximately 1,500 feet east of State Highway
37 and 1,500 feet north of United States Highway
67 in Franklin County, Texas

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: July 20, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 20, 2006 to July 20, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Lanae Foard Phone: (512) 239-2554

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 01/09/2007 (536272)
- 2 02/23/2007 (583103)
- 3 03/21/2007 (583106)
- 4 05/17/2007 (583110)
- 5 07/16/2007 (583115)
- 6 08/16/2006 (583117)

7	09/12/2006	(583119)
8	10/16/2006	(583122)
9	11/16/2006	(583125)
10	12/18/2006	(583127)
11	01/19/2007	(583129)
12	08/23/2007	(608377)
13	06/18/2007	(608378)
14	09/04/2007	(608379)
15	09/26/2007	(608380)
16	10/22/2007	(622576)
17	11/28/2007	(622577)
18	12/27/2007	(622578)
19	02/26/2008	(674154)
20	12/31/2007	(674155)
21	03/17/2008	(692458)
22	04/21/2008	(692459)
23	05/22/2008	(692460)
24	06/23/2008	(713573)
25	07/22/2008	(713574)
26	09/02/2008	(713575)
27	09/22/2008	(713576)
28	10/20/2008	(729594)
29	12/01/2008	(729595)
30	12/23/2008	(729596)
31	03/12/2009	(738343)
32	02/25/2009	(752842)
33	01/22/2009	(752843)
34	03/20/2009	(770463)
35	04/22/2009	(770464)
36	02/11/2010	(811005)

37 05/27/2009 (811006)
 38 06/22/2009 (811007)
 39 07/21/2009 (811008)
 40 08/25/2009 (811009)
 41 09/22/2009 (811010)
 42 10/22/2009 (811011)
 43 11/24/2009 (811012)
 44 12/22/2009 (811013)
 45 01/22/2010 (811014)
 46 06/08/2010 (826067)
 47 03/22/2010 (833086)
 48 04/19/2010 (833087)
 49 05/26/2010 (833088)
 50 06/16/2010 (846956)
 51 07/19/2010 (861450)
 52 08/20/2010 (867714)
 53 09/21/2010 (874681)
 54 10/20/2010 (882267)
 55 11/23/2010 (888732)
 56 03/18/2011 (917103)
 57 05/06/2011 (927374)
 58 04/22/2011 (927375)
 59 12/17/2010 (927376)
 60 01/20/2011 (927377)
 61 07/14/2011 (935883)
 62 05/23/2011 (938800)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/30/2006 (583127) CN600251748
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

 Date: 02/28/2007 (583106) CN600251748

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/06/2008 (687750) CN600251748
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(c)(1)
 30 TAC Chapter 317 317.3(c)(2)
 30 TAC Chapter 317 317.3(c)(3)
 30 TAC Chapter 317 317.3(c)(4)
 30 TAC Chapter 317 317.3(c)(5)
 30 TAC Chapter 317 317.3(c)(6)
 30 TAC Chapter 317 317.3(c)(7)
 Description: Failure to maintain two operational pumps at the number 1 lift station on Highway 67.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to maintain the fence around the lift stations in good repair.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to maintain the manhole at lift station number 2, the "Carr Street Lift Station," in good condition. The manhole cover was observed to be damaged and in disrepair.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.7(e)
 Description: Failure to maintain the grounds around the perimeter of the wastewater treatment plant and to provide access to the wastewater treatment plant outfall. The fence had vines and trees growing on it and the access to the outfall was overgrown with vegetation.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 30, SubChapter J 30.331(a)
 30 TAC Chapter 30, SubChapter J 30.331(b)
 30 TAC Chapter 30, SubChapter J 30.331(c)
 30 TAC Chapter 30, SubChapter J 30.350(d)
 Description: Failure to employ individuals with adequate certification to operate and maintain the collection system.

Date: 11/30/2008 (729596) CN600251748
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2009 (752842) CN600251748
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2009 (811012) CN600251748
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2009 (811014) CN600251748
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 (833086) CN600251748
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2010 (927377) CN600251748
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2011 (927374) CN600251748
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2011 (917103) CN600251748
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MOUNT VERNON
RN102962230**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1257-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Mount Vernon ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 1,500 feet east of State Highway 37 and 1,500 feet north of United States Highway 67 in Franklin County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 19, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Five Hundred Twenty Dollars (\$1,520) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid One Thousand Two Hundred Sixteen Dollars (\$1,216) of the administrative penalty and Three Hundred Four Dollars (\$304) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limits for total suspended solids and ammonia nitrogen ("NH₃-N"), in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011122002, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on June 28, 2011. Specifically, the total suspended solids daily average exceeded the permit limit of 15 milligrams per liter ("mg/L") for the month of December 2010 (19 mg/L), and the NH₃-N daily average exceeded the permit limit of 3 mg/L for the months of January 2011 (4.7 mg/L) and February 2011 (6.1 mg/L).

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Mount Vernon, Docket No. 2011-1257-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011122002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:


Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/6/11
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Margaret Sears
Signature

8/23/2011
Date

Margaret Sears
Name (Printed or typed)
Authorized Representative of
City of Mount Vernon

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.